

**REPORT OF THE JUDICIAL RESOURCES COMMISSION**  
**TO THE CHAIRS OF THE JUDICIARY COMMITTEES OF THE**  
**SENATE AND HOUSE OF REPRESENTATIVES**  
**THE CHAIR OF THE SENATE APPROPRIATIONS**  
**COMMITTEE AND**  
**THE CHAIR OF THE BUDGET COMMITTEE OF THE HOUSE**  
**OF REPRESENTATIVES**

**PREPARED PURSUANT TO §600.101, RSMO**

## JUDICIAL RESOURCES COMMISSION 2000

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Circuit Judge, Division 3  
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Hon. Brian H. May  
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## **The Public Defender System, An Overview**

The Missouri State Public Defender System was established on April 1, 1982 as an independent department in the Judicial Branch in order to provide a "system for providing defense services to every jurisdiction within the state by means of a centrally administered organization having a full-time staff." Through this department of state government, constitutionally required defense services are provided to indigent persons accused of crimes. This is accomplished through an organized program capable of responding to the needs of all judicial jurisdictions within the state in an efficient, cost-effective manner.

Prior to becoming an independent department in 1982, the Missouri State Public Defender System was administered by the State Public Defender Commission and staffed by personnel from the office of State Courts Administrator. The System consisted of 18 offices which covered 39 counties and the City of St. Louis. Defense services in the remaining 76 counties were provided by court appointed counsel that were paid from the appropriation made to the Office of State Courts Administrator for that purpose.

From 1982 until 1989, defense services in many parts of the state, usually rural areas, were provided by private attorneys who had contracted with Missouri's Public Defender System to provide defense services in those rural areas. In fiscal 1990 and 1991, the Missouri State Public Defender System was reorganized and the contract system of providing services was eliminated. Contract counsel were replaced by state public defender district offices in Ava, West Plains, Fulton, Sedalia, Harrisonville, Lebanon, Nevada, Buffalo, Caruthersville, Kennett, Monett, Chillicothe. (Troy serving Lincoln and Pike Counties, was added in 1994.)

Today, the Missouri State Public Defender System provides indigent defense services to every jurisdiction from 37 offices located throughout the state. The largest division, the trial division, provides trial level representation in every judicial circuit. A map detailing public defender district offices can be found at Appendix A. It is in these local offices where disputes between the State Public Defender and local counties arise concerning office space. (Office space for the capital and appellate divisions, which were created as part of the 1989 reorganization, is paid for from the budget of the State Public Defender and not an issue with local counties.)

Even prior to 1982, the burden and expense of office space and utility services for local public defender offices was placed upon the counties served by that office. Of course, prior to 1982 there were only 17 state public defender offices. Defense services in most jurisdictions were provided by the court appointed counsel and office space was therefore not an issue. The manner of providing office space and utilities was not changed in 1982, but recodified in RSMo. 600.040.1 which continues today and reads as follows:

*The city or county shall provide office space and utility services, other than telephone service, for the circuit or regional public defender and his personnel. If there is more than one county in a circuit or region, each county shall contribute, on the basis of population, its pro rata share of the costs of office space and utility services, other than telephone service. The state shall pay, within the limits of the appropriation therefore, all other expenses and costs of the state public defender system authorized under this Chapter.*

Although there were a few more state public defender offices created in 1982 (Springfield, Poplar Bluff, and Lexington), from 1982 until 1989 defense services in many rural jurisdictions were provided by contract counsel, not state public defender offices. As such, providing office space in those jurisdictions was not an issue. Contract counsel provided services from their private offices and any cost of office space was simply factored into the contract. The State, and not the counties, was paying for the office space as it was hidden in the contract price.

## The Problem

The current method of providing office space to local public defender offices impedes the efficient operation of the department.

After the Department's formation in 1982 and its reorganization in 1989, the Office of State Public Defender has grown dramatically. Caseload increases, not simply reorganization, have dramatically impacted the Department. In FY1983 the Department had 200 FTE (full-time equivalent) providing defense services in those jurisdictions without contract counsel. By FY2000 and without contract counsel, the Department had 549 FTE providing defense services in all 115 counties and the City of St. Louis. (A chart detailing Department growth is included at Appendix B.)

The increase in FTE is not only due to the acceptance of statewide responsibilities in 1989. Additional FTE have been needed throughout the state to address increasing caseloads. From FY1989 until FY1999, caseloads increased from 45,457 to 73,738. This upward trend has not, however, been uniform throughout the state. Recently, caseloads in urban offices actually decreased while they have increased dramatically in many rural areas. It is in these rural areas where disputes concerning office space generally arise between the Office of State Public Defender and the local counties.

In order to utilize its FTE efficiently, the Office of State Public Defender must position those FTE where needed. When receiving new FTE to address a statewide increase in caseload, those FTE should be positioned in offices with increasing caseloads. Even if statewide caseloads do not increase and there are no new FTE, the Department should be prepared and able to *relocate* FTE from offices with decreasing caseloads to those jurisdictions with increases. The current method of providing office space and utilities simply does not allow the State Public Defender to meet these fluid caseload needs in all 115 jurisdictions.

Some county governments have objected to and resent being required to pay for office space for the Office of State Public Defender. Even in jurisdictions where counties have provided adequate space, they are generally ill prepared to meet the generally fluid needs of this Department with statewide responsibility.

A chart comparing case dispositions for the various district offices is provided at Appendix C. This chart shows the various percentage changes in caseloads from FY96 to FY99. Statewide caseload is up over that period 6.2%. However, percentage caseloads in the various districts vary greatly. A few examples are as follows:



Kansas City	Virtually unchanged
St. Louis County	Down 31.13%
St. Louis City	Down 26.54%
Liberty	Up 45%
Columbia	Up 36%
Harrisonville	Up 76%
Union	Up 48%
Poplar Bluff	Up 71%
Troy	Up 63%

Either because of economic necessity or in passive resistance to their obligation, some counties have housed the public defender in woefully inadequate facilities. Public defenders have endured the indignities of insect infestation, lack of privacy, leaking roofs, and cramped quarters. Counties simply have no interest in the adequacy of public defender facilities, especially when they don't want to provide space at all.

The Office of State Public Defender is not interested in securing luxurious offices. Its interest is to have facilities adequate to ensure efficient, effective use of personnel and other resources appropriated to the Department. The State Public Defender does not maintain that all counties have consciously neglected their statutory obligation. The State Public Defender does maintain that the current method of providing office space, even when counties are attempting to meet their obligation, is inefficient and incapable of meeting the fluid needs of the various district offices.

Most public defender districts are multi-county. Since the current statute requires each county to pay their pro rata share, inter-county cooperation is essential. It is not always forthcoming.

Disputes between counties and the department of State Public Defender have expanded beyond their statutory obligation. Disputes have not only concerned whether or not office space will be provided at all, they have included where and what space will be provided.

Although the establishment of public defender offices is the authority of the State Public Defender Commission, (RSMo. 600.023), counties have sought to provide office space at the location of their choice; typically their own county. Some have refused to pay their pro rata share to the host county when they are unhappy with the office location. On at least one occasion, these county disputes have risen to the point of litigation between the counties.

The State Public Defender Commission is naturally interested in locating district offices in multi-county areas where they will be the most efficient use of state resources. Counties do not necessarily share that interest; preferring the office to be located where it will cost the least or have the most positive economic impact on their local economy.

In sum, the current method of providing for local public defender office space requires counties to cooperate with each other, and with the Department of State Public Defender. The competing interest of the essential parties to this agreement, coupled with the changing needs of the Department, are a formula for conflict.

## Attempted Solutions

The Office of State Public Defender has sought the cooperation of counties and received limited success. A few counties have voluntarily met their obligation and continue to do so. Other counties have done so reluctantly after negotiations with the Office of State Public Defender. Still other counties have absolutely refused to meet their responsibility in any matter, even to provide inadequate office space for the State Public Defender.

In 1997, the legislature responded to the refusal of some counties to provide or pay for public defender office space. Language was added to House Bill 5, allowing for the interception of prisoner per diem payments to counties failing to meet their obligations under RSMo. 600.040. The state has intercepted some money intended for counties that scoffed at their obligation. However, these interceptions and threats of interceptions have put great strain on state-county relations. Counties quite naturally see this as heavy-handed, state mandate, tactics.

In 1999, the legislature once again addressed the problem of providing public defender office space. A new section, (RSMo. 600.101), was added which allows disputes between counties and the State Public Defender to be submitted to the Judicial Finance Commission (RSMo. 477.600). This same section also calls for a study and report from the Judicial Resources Commission to the chairs of the House and Senate Judiciary Committees, Senate Appropriation Committee, and House Budget Committee. The State Public Defender Commission has recommended and continues to recommend a more dramatic and permanent approach to the problem. The State Public Defender Commission has recommended an amendment to RSMo. 600.040.1 which would make the office space of all local offices their responsibility of the Office of State Public Defender. The Missouri Association of Counties has also endorsed this change and passed a resolution in support thereof at its 1999 Annual Conference. A copy of this resolution is attached as Exhibit D.

Amendment to RSMo. 600.040.1, which would accomplish the proposed changes, could be drafted as follows:

*[The city or county shall provide office space and utility services, other than telephone service, for the circuit or regional public defender and his personnel. If there is more than one county in a circuit or region, each county shall contribute, on the basis of population, its pro rata share of the cost of office space and utility services, other than telephone service.] The state shall pay, within the limits of the appropriation therefore, all [other] expenses and costs of the State Public Defender System authorized under this Chapter.*

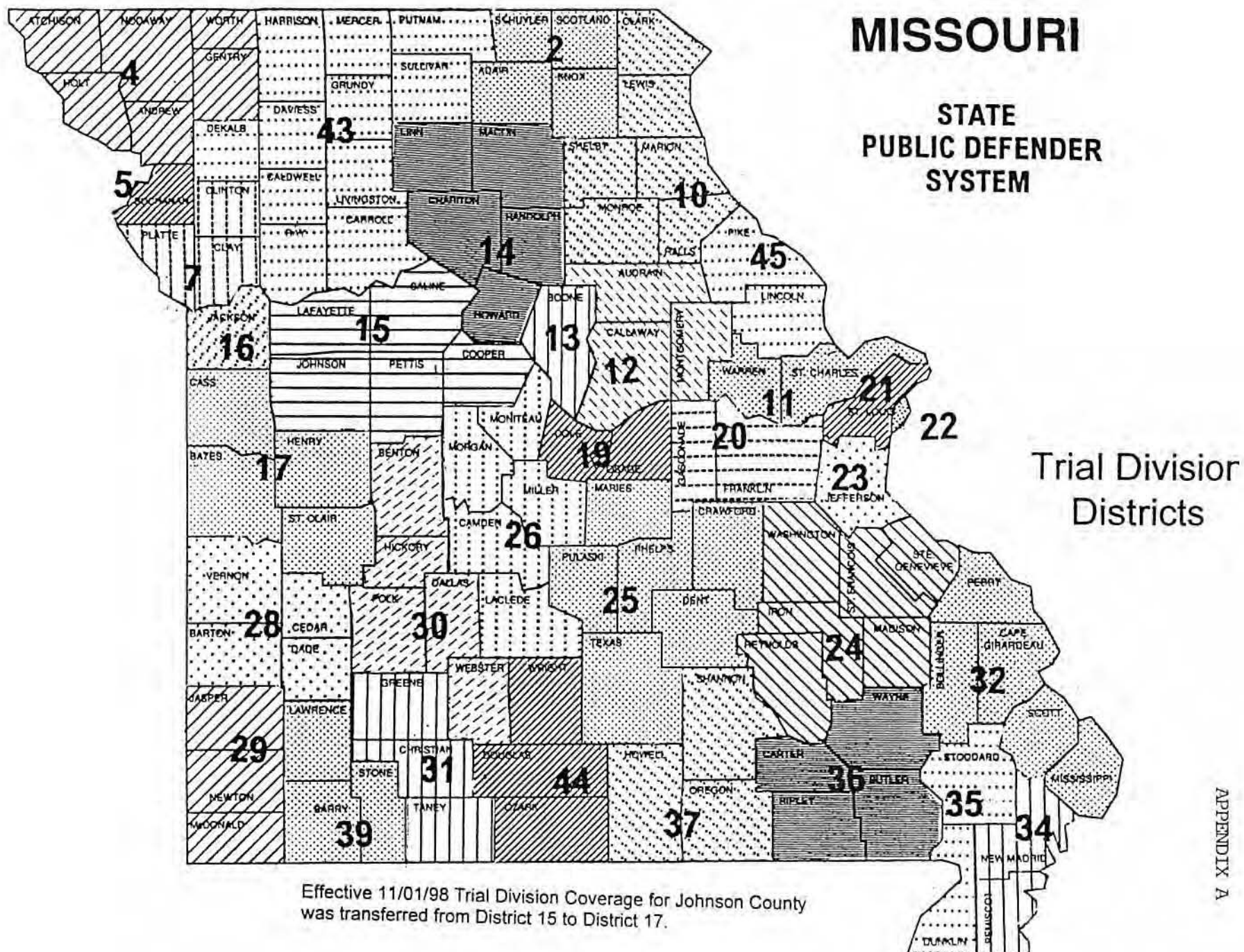


## **Conclusion and Recommendation**

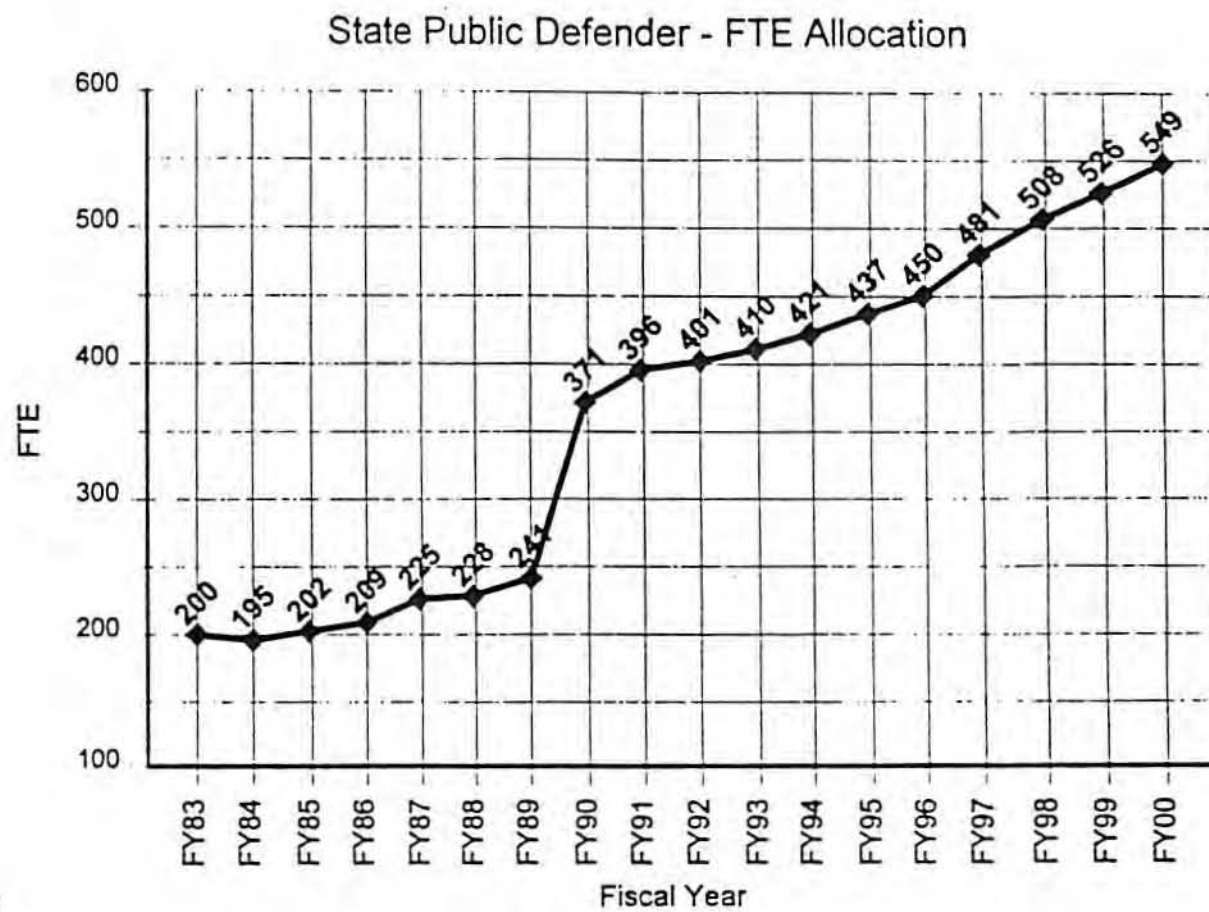
The Judicial Resources Commission has supported the Office of State Public Defender in its efforts to revise §600.040, RSMO, and its budget requests for funding its office space needs. That support continues.

It is the conclusion of the Judicial Resources Commission that this is a problem in need of solution that, considering fluid and increasing caseloads, will surely get worse unless permanent corrective action is taken.

It is the recommendation of the Judicial Resources Commission that §600.040 be amended, making state public defender office space a state obligation.



Fiscal Year	Number of FTE
FY83	200.30
FY84	194.75
FY85	201.75
FY86	208.66
FY87	225.48
FY88	228.00
FY89	241.00
FY90	371.25
FY91	396.38
FY92	401.38
FY93	410.38
FY94	421.38
FY95	437.38
FY96	449.88
FY97	481.38
FY98	508.13
FY99	526.38
FY00	548.88



**TRIAL DIVISION CASE DISPOSITIONS**  
**FISCAL YEAR COMPARISONS - FY96 to FY99**  
**BY DISTRICT**

	District	FY96 Cases	FY97 Cases	# Change	% Change	FY98 Cases	# Change	% Change	FY99 Cases	# Change	% Change	# Change	% Change
	# District Name	Disposed	Disposed	96 to 97	96 to 97	Disposed	97 to 98	97 to 98	Disposed	98 to 99	98 to 99	96 to 99	96 to 99
1	St. Louis Juvenile	0	1,880	1,880		1,445	-(435)	-23.14%	1,412	-(33)	-2.28%	1,412	
2	Kirksville	380	416	36	9.47%	351	-(65)	-15.63%	429	78	22.22%	49	12.89%
4	Maryville	496	529	33	6.65%	586	57	10.78%	583	-(3)	-0.51%	87	17.54%
5	St. Joseph	2,055	1,625	-(430)	-20.92%	1,903	278	17.11%	2,076	173	9.09%	21	1.02%
7	Liberty	2,081	2,065	-(16)	-0.77%	2,634	569	27.55%	3,023	389	14.77%	942	45.27%
10	Hannibal	812	854	42	5.17%	1,156	302	35.36%	1,019	-(137)	-11.85%	207	25.49%
11	St. Charles	1,581	1,869	288	18.22%	2,033	164	8.77%	1,913	-(120)	-5.90%	332	21.00%
12	Fulton	1,406	1,679	273	19.42%	1,703	24	1.43%	1,586	-(117)	-6.87%	180	12.80%
13	Columbia	2,964	1,874	-(1,090)	-36.77%	3,187	1,313	70.06%	4,041	854	26.80%	1,077	36.34%
14	Moberly	957	653	-(304)	-31.77%	1,015	362	55.44%	1,212	197	19.41%	255	26.65%
15	Sedalia	1,714	1,753	39	2.28%	1,696	-(57)	-3.25%	1,702	6	0.35%	-(12)	-0.70%
16	Kansas City	8,611	9,054	443	5.14%	8,572	-(482)	-5.32%	8,604	32	0.37%	-(7)	-0.08%
17	Harrisonville	1,652	2,034	382	23.12%	2,600	566	27.83%	2,907	307	11.81%	1,255	75.97%
19	Jefferson City	1,097	797	-(300)	-27.35%	1,163	366	45.92%	1,378	215	18.49%	281	25.62%
20	Union	977	1,355	378	38.69%	1,241	-(114)	-8.41%	1,447	206	16.60%	470	48.11%
21	St. Louis County	6,753	4,680	-(2,073)	-30.70%	4,054	-(626)	-13.38%	4,651	597	14.73%	-(2,102)	-31.13%
22	St. Louis City	10,587	8,572	-(2,015)	-19.03%	8,322	-(250)	-2.92%	7,777	-(545)	-6.55%	-(2,810)	-26.54%
23	Hillsboro	1,284	1,404	120	9.35%	1,241	-(163)	-11.61%	1,214	-(27)	-2.18%	-(70)	-5.45%
24	Farmington	1,356	1,657	301	22.20%	1,533	-(124)	-7.48%	1,663	130	8.48%	307	22.64%
25	Rolla	2,121	2,040	-(81)	-3.82%	1,984	-(56)	-2.75%	2,116	132	6.65%	-(5)	-0.24%
26	Lebanon	1,378	1,470	92	6.68%	1,755	285	19.39%	1,625	-(130)	-7.41%	247	17.92%
28	Nevada	724	805	81	11.19%	960	155	19.25%	979	19	1.98%	255	35.22%
29	Carthage	3,495	3,214	-(281)	-8.04%	3,540	326	10.14%	3,391	-(149)	-4.21%	-(104)	-2.98%
30	Buffalo	836	971	135	16.15%	1,189	218	22.45%	1,088	-(101)	-8.49%	252	30.14%
31	Springfield	2,194	2,585	391	17.82%	2,447	-(138)	-5.34%	2,510	63	2.57%	316	14.40%
32	Cape Girardeau	2,223	1,757	-(466)	-20.96%	2,544	787	44.79%	2,335	-(209)	-8.22%	112	5.04%
34	Caruthersville	1,038	521	-(517)	-49.81%	1,275	754	144.72%	994	-(281)	-22.04%	-(44)	-4.24%
35	Kennett	1,204	1,333	129	10.71%	1,542	209	15.68%	1,461	-(81)	-5.25%	257	21.35%
36	Poplar Bluff	872	1,040	168	19.27%	2,625	1,585	152.40%	1,492	-(1,133)	-43.16%	620	71.10%
37	West Plains	584	534	-(50)	-8.56%	663	129	24.16%	644	-(19)	-2.87%	60	10.27%
39	Monett	1,595	1,623	28	1.76%	1,724	101	6.22%	1,939	215	12.47%	344	21.57%
43	Chillicothe	1,389	1,705	316	22.75%	1,784	79	4.63%	1,767	-(17)	-0.95%	378	27.21%
44	Ava	443	541	98	22.12%	547	6	1.11%	546	-(1)	-0.18%	103	23.25%
45	Troy	512	658	146	28.52%	667	9	1.37%	835	168	25.19%	323	63.09%
47	Springfield Conflicts	688	291	-(397)	-57.70%	498	207	71.13%	0	-(498)	-100.00%	-(688)	-100.00%
49	St. Louis City Conflicts	863	772	-(91)	-10.54%	824	52	6.74%	838	14	1.70%	-(25)	-2.90%
Total Trial Division		68,922	66,610	-(2,312)	-3.35%	73,003	6,393	9.60%	73,197	194	0.27%	4,275	6.20%
Dispositions		FY96	FY97			FY98			FY99			FY96 to FY99	

**RESOLUTION IN SUPPORT OF STATE ASSUMPTION  
OF COSTS RELATING TO LOCAL PUBLIC  
DEFENDER OFFICE OPERATIONS**

**WHEREAS**, in 1989, the State Public Defender System was reorganized to ensure that public defender services were provided to each area of the state, and

**WHEREAS**, in counties where public defender offices are located, the county is required by law to furnish office space and certain utility expenses for those offices, and

**WHEREAS**, if there is more than one county in a circuit or region, each county is required to contribute its pro rata share of the costs of office space and utility expenses, and

**WHEREAS**, the public defender system is overseen by a seven member Public Defender Commission and is centrally administered by the Office of the State Public Defender, and

**WHEREAS**, the public defender system is a clear function of the state court system, and all costs associated with it should be the responsibility of state government, and

**WHEREAS**, legislative attempts to transfer that responsibility to the state have not been successful despite the support of both the Missouri Association of Counties and the Office of the State Public Defender, and

**WHEREAS**, 600.101, RSMo, as enacted by the passage of Senate Bill 1 in 1999, requires the Commission on Judicial Resources to study the public defender housing issue and report its findings to the chairs of the judiciary committee of the Senate and House of Representatives, and the chairs of the Senate appropriations committee and budget committee of the House of Representatives,

**THEREFORE, BE IT RESOLVED**, that the Missouri Association of Counties, does hereby reaffirm its support of legislative efforts that would relieve counties of the cost of providing office space and certain utility expenses for the various state public defender's offices, and

**BE IT FURTHER RESOLVED**, that the Missouri Association of Counties does hereby respectfully request that the Commission on Judicial Resources and the Missouri General Assembly take the necessary steps to transfer that responsibility to the state of Missouri.